

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4058 of 2021

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Amit Kumar son of Balram Deo resident of Mohalla - Opposite of R.C. Paul,
Bank Colony Road, Patel Nagar, Post Office and P.S. - Lal Bahadur
Shastrinagar, District- Patna.

... .. Petitioner/s

Versus

1. The Bihar Education Project Council through its Administrative Officer,
having its Office at Shiksha Bhawan, Bihar Rastrabhasha compound,
Saidpur, Rajendra Nagar, Patna- 4.
2. The State Project Director, Bihar Education Project Council, Patna.
3. The Principal Secretary, Department of Education, Government of Bihar,
Patna.
4. The State Appellate Authority, Patna through its Secretary, Education
Department, Bihar, Patna, having its office at 5 C.D. Niyojan Bhawan,
Bailey Road, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Pramod Mishram, Advocate
For the State	:	Mr. Madanjeet Kumar, GP-20
For Respondent No. 1 & 2:	:	Mr. Girijish Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 24-11-2021

Heard the learned counsels for the parties.

2. In the instant petition, petitioner has prayed for
following reliefs:

“(i) A certiorari setting aside the
order passed from the level of Respondent
State Project Director, Bihar Education
Project Council, Patna, contained in Memo
No. 160 dated 09.01.2020 (Annexure-14),
whereby and where-under the Respondent
authority while passing a reasoned order in
the light of the order of this Hon’ble Court
dated 03.12.2019 passed in C.W.J.C. No.
24012/2019, rejected the
representation/claim of the petitioner again



on the same very old grounds reiterating the earlier reasons of denying the petitioner his rightful post and pay-scales equivalent with his initial appointment in a very mechanical, casual and contemptuous manner without properly analyzing the case of the petitioner and thus overlooking the directions of this Hon'ble Court while granting the petitioner, liberty to approach the authority concerned.

(ii) A Mandamus commanding and directing upon the Respondent No. 2 to post the petitioner against the similar higher post giving the pay protection with benefit of enhancement of pay in view of decision taken by Respondent No. 2 after merger of Bihar Madhyamik Shiksha Parishad under Bihar Education Project Council, Patna and giving the benefit of continuity of service pay the consequential monetary benefits accrued to the petitioner.

(iii) For a direction upon the Respondents concerned to pay the due salary of month August 2018 and earned leave which has not been paid due to non-relieving of petitioner despite having prayed for the same to the Respondent No. 4 but due to official clearance of certain work petitioner was relieved after some time for which petitioner is not said to be responsible.

(iv) Any/or any other relief or reliefs for which the petitioner is found entitled to in the facts and circumstances of this case.”

3. The petitioner was stated to have been appointed to the post of Store-keeper on contract basis in the year 2011 and continued to hold the post of Store-keeper till 26.07.2018. Bihar Madhyamik Shiksha Parishad was the employer of the petitioner



and it was dissolved, in the result petitioner's services was absorbed by the State of Bihar on 26.07.2018.

4. The grievance of the petitioner is that he is entitled to pay protection in terms of Annexure-4 (Clause-4). As a Store-keeper on contract basis, he was drawing a gross salary of Rs. 23,353/-. As on the date of absorption his basic pay was Rs. 15,000/-.

5. In the light of aforesaid facts and circumstances, question for consideration is whether petitioner is entitled to pay protection with reference to gross salary of Rs. 26,653/- for the post of Store-keeper or not? As a contract appointee he was not extended any pay-scale attached to the post since it was contract appointment and he was paid consolidated amount plus certain allowances. While adding some allowances, he was getting Rs. 26,653/-. Therefore, as on 26.07.2018, he is not extended any pay scale of the post of Store-keeper. Question of pay protection would be arise only as and when the post held by a person on permanent basis with a particular pay scale and if the pay-scale is higher than the later post for which he was appointed. Undisputedly, petitioner's appointment is on contract basis, he is not entitled to any particular pay-scale so as to extend pay protection. Accordingly, the petitioner has not made out a case



in respect of pay protection and other reliefs sought in the present petition. Petitioner has not been paid salary for the month of August, 2018 and earned leave has also not been extended. In respect of these two issues, concerned respondent is hereby directed to examine the records and extend the benefits, if otherwise petitioner is eligible. The above exercise shall be completed within a period of three months from the date of receipt of this order.

6. Accordingly, the instant petition stands disposed of.

(P. B. Bajanthri, J)

rakhi/-

AFR/NAFR	
CAV DATE	
Uploading Date	30.11.2021
Transmission Date	

